

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

YVONNE LONG,

Plaintiff,

Case No: 1:08-cv-1162

v

HON. JANET T. NEFF

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

OPINION AND ORDER

Plaintiff seeks judicial review of a decision of the Commissioner of the Social Security Administration. 42 U.S.C. § 405(g). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R), recommending that this Court affirm the Commissioner's decision to deny Plaintiff's claim for Disability Insurance Benefits. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation (Dkt 15). Defendant has filed a Response (Dkt 16). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

As Defendant observes in his Response, Plaintiff's objections essentially duplicate her arguments raised on appeal. Plaintiff first argues that the Magistrate Judge erred in concluding that the Administrative Law Judge (ALJ) was not required to fully evaluate the degree of limitation caused by Plaintiff's mental impairment because the ALJ did not find that Plaintiff had a severe mental impairment. Plaintiff contends that the ALJ indicated that she has "a chronic pain disorder

with psychological factors,” which implies a severe mental impairment necessitating a full evaluation of this “disability” pursuant to the sequential evaluation process under 20 C.F.R. § 404.1520(a).

Plaintiff’s argument is without merit. The Magistrate Judge properly and extensively reviewed Plaintiff’s claim based on her alleged mental impairments, which the ALJ found were not severe because they did not meet the durational requirement for a severe impairment. The Magistrate Judge found no error in the ALJ’s determination that Plaintiff’s mental impairments were not severe, and further noted, that in any event, any error was harmless because the result would be the same (R & R at 10-11).

Plaintiff also takes issue with the Magistrate Judge’s conclusion that the ALJ did not err in his residual functioning capacity (RFC) determination, even though the RFC did not address Plaintiff’s mental impairments. The Magistrate Judge considered Plaintiff’s claim that the ALJ’s RFC “does not adopt any mental limitations” (R & R at 12) and found no support for Plaintiff’s claims of non-exertional limitations beyond those recognized by the ALJ. The Court finds Plaintiff’s claim of error without merit.

The Magistrate Judge properly and fully reviewed the claims presented by Plaintiff and found no basis for reversing the decision to deny Disability Insurance Benefits.

Accordingly:

IT IS HEREBY ORDERED that the Objections (Dkt 15) are DENIED, the Report and Recommendation of the Magistrate Judge (Dkt 14) is APPROVED and ADOPTED as the Opinion of the Court, and the decision of the Commissioner of Social Security is AFFIRMED.

A Judgment will be entered consistent with this Opinion and Order.

Dated: April 27, 2010

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge